

ATTORNEY DOCKET NO. INVSC.4

AMENDMENT AND RESPONSE
SERIAL NO. 10/086,584

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REMARKS:

This Application has been carefully reviewed in light of the Office Action mailed December 22, 2003. Claims 44-57 were previously pending in this Application. Claims 44, 45, 49, 54, 55 and 57 have been amended herein, to define the invention. These amendments should in no way be construed as narrowing or limiting amendments. Claims 51 and 56 have been canceled herein, without prejudice of disclaimer. Thus, Claims 44, 45, 46, 47, 48, 49, 50, 52, 53, 54, 55 and 57 are currently pending in this Application.

Applicants appreciate Primary Examiner Tri Mai's willingness to discuss US Patent No. 3,965,955 to Price ("Price") with inventor David Andrechuk in January 2004, and supervisor Examiner Lee Young's agreement with Mr. Andrechuk that Price teaches away from a "moisture" absorbent member, which is provided as a claim limitation of Claim 44 as presented herein, and that the limitation "moisture" absorbent member removes Price as a reference. Abundant support for a "moisture" absorbent member is found throughout the specification of the Application, including paragraphs 0032 and 0037 of this Application as published on May 22, 2003 as United States Patent Application Publication No. US 2003/0096660 A1.

CLAIM REJECTIONS UNDER 35 U.S.C. § 112

The Examiner indicated that all of the prior pending Claims 44-57 contain certain information that was not described in the specification in such a way as to reasonably convey such information to one of ordinary skill in the relevant art. Applicants strenuously disagree with the Examiner's contention

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and assertions. In an effort to move this case forward, Applicants have made amendments, without prejudice or disclaimer, to remove these limitations. These amendments should in no way be construed as an admission, either express or implied, that Applicants agree with the Examiner's assertions regarding such claim information. As such, Applicants respectfully request that all pending claims comply with 35 U.S.C. § 112.

CLAIM REJECTIONS UNDER 35 U.S.C. § 102

The Examiner rejected Claims 44, 47 and 53 based on 35 U.S.C. § 102 based on US Patent No. 3,965,955 to Price. As stated above, the inclusion of the term "moisture" in Claim 44 removes Price as a reference since Price actually teaches away from the present invention. As such, Applicants appreciate the Examiner's willingness to remove this rejection.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

The Examiner rejected all of the previously pending Claims 44-57 based on 35 U.S.C. § 103 in view of one or more of the following references: US Patent No. 3,965,955 to Price, US Patent No. 5,203,390 to Eckstein; US Patent No. 6,463,971 to Kinsey; US Patent No. 2,984,486 to Jones; US Patent No. 4,662,415 to Proutt; US Patent No. 5,118,107 to Bucher; US Patent No. 3,147,012 to Sullivan, Jr.; US Patent No. 4,378,832 to Thompson.

Since Price, as discussed above, has been removed as a reference, none of the rejections based on Price are discussed below. Because Claim 46 was only rejected based on Price, Applicants submit that all objections and rejections related to

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Claim 46 have been overcome, and Applicants respectfully request allowance of Claim 46. Similarly, Claim 48 was indicated to be rejected solely based on Price in view of Kinsey. Because the Price reference teaches away from the present invention, and has been removed as a reference, Applicants submit that Claim 48 is also in condition for allowance, and Applicants earnestly seek such allowance.

Claims 44, 45, 47, 49, 50, 52, 53, 54 and 55 all generally recite the following limitation:

- wherein the grip on the shaft of the golf club may be inserted into the opening of the outer cushioned layer and into the internal volume of the outer cushioned layer; the outer cushioned layer operable to be squeezed until it is deformed to contact the moisture absorbent member with the grip on the shaft of the golf club while a portion of the shaft of the golf club is positioned within the opening of the outer cushioned layer without the opening being sealingly engaged around the portion of the shaft of the golf club positioned within the opening

None of the references cited by the Examiner, either individually or in combination, disclose, describe, teach or contemplate the claim limitations highlighted. For example, none of the references contemplate, teach or describe, in any manner the "sealingly" limitation, and several teach away from this limitation since these references do not contemplate or

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suggest, in any manner the use of the present invention. As such, the structural differences of independent Claim 44 renders these claims patentably distinct. Thus, Claims 45, 47, 49, 50, 52, 53, 54 and 55 are patentably distinct from the cited references. As such, Applicants respectfully request that the Examiner withdraw these rejections.

Applicants respectfully submit that this Application is in condition for allowance and respectfully requests that the Examiner allow currently pending Claims 44, 45, 46, 47, 48, 49, 50, 52, 53, 54, 55 and 57.

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CONCLUSION:

Applicants respectfully submit that the Application is in condition for allowance, and Applicants earnestly seek such allowance of pending Claims 44, 45, 46, 47, 48, 49, 50, 52, 53, 54, 55 and 57. Should the Examiner have any questions, comments, or suggestions in furtherance of the prosecution of this Application, please contact Applicants at 214.828.7387. Applicants stand ready to conduct a telephone interview with the Examiner to review this Application if the Examiner believes that such an interview would assist in the advancement of this Application.

To the extent that any further fees are required during the pendency of this Application, including petition fees, the Commissioner is hereby authorized to charge payment of any additional fees, including, without limitation, any fees under 37 C.F.R. § 1.16 or 37 C.F.R. § 1.17, to the credit card identified in the previously submitted Credit Card Payment Form and reference Attorney Docket No. INVSC.4. Please credit any overpayments to this same credit card.

This is intended to be a complete response to the Office Action mailed December 22, 2003.

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Respectfully submitted,

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